

2008 Legislative Session Report

State Tax Commission

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April 8 – Coeur d'Alene

April 10 – Pocatello

April 11 – Twin Falls

Bills that Did Not Make It

- HB 438 – a bill that would have exempted the value attributable to federal income tax credits for sec 42, low income housing.
- HB 459 & 531 – would have required state agencies to engage in negotiated rule making whenever feasible when making or amending administrative rules.
- HB 468 – upon simple majority vote highway districts would have been able to increase budget for bridge maintenance by 10% for 10years above the current maximum levy.
- HB 579 – Would have provided for a property tax budget limitation for any given taxing district; the limit would be the amount established by an election. **“A tool for the taxpayers tool box”**

Bills that did not make it (cont)

- HB 594 – would have revised the method for computing new budget authority relating to new construction.
- HB 692 – would have exempted from taxation right-of-way being used as highways.
- HB 693 – would have limited all assessment increase to the CPI-Urban.
- HB 694 – would have required that half of the new construction revenue from a county or city be used for roads and public transportation.
- SB 1304 – would have raised the HOE to \$150,000

Bills that did not make it (cont)

- SB 1400 – Full Disclosure of Sales Prices
 - Residential Only

New Legislation -2008(Passed)

House Bill	Subject Matter	Effective Date
341	New or Altered Tax District Boundaries	July 1, 2008
387	Religious or Charitable entities formed as Limited Liability Companies	Jan. 1, 2008
419	Cadastral (Mapping) Certification Program	July 1, 2008
420	Method of payment for property taxes	July 1, 2008
470	Urban Renewal and the computation of certain fund Levies	Jan. 1, 2008
529	Geothermal gross earnings tax and Property Tax Exemption	Jan. 1, 2008
530	Circuit Breaker – Certain individuals income defined	July 1, 2008

New Legislation -2008(Passed)

House Bill	Subject Matter	Effective Date
544	Property Tax Deferral Program	July 1, 2008
550	Exemption for certain Manufacturing Plant	Jan. 1, 2008
562	New Capital Investment Incentive Act	Jan. 1, 2008
599	Personal Property Exemption	Jan. 1, 2009
680	Community Infrastructure District	July 1, 2008
691	Disposal of Tax Deeded Property	Jan 1, 2008

599, 680, and 691 not signed as of 4/3

Effective Dates

Jan. 1, 2008 (Retro) - Upon Passage - July 1, 2008

- Bills with retroactive dates often require the development of Temporary Rules to deal with the immediate implementation of the law in the current assessment cycle.
- Bills with a state fiscal year (July 1) date may also require Temporary Rules. Almost all bills require some level of explanation such as shown below.

To All Assessors:

On March 19, 2008, Governor Otter signed into law House Bill 544. This new law amends the current Tax Deferral Program that was implemented in 2006 to include (Property Tax Reduction aka Circuit Breaker) applicants with incomes between \$28,000 and \$40,000. This change does not go into effect until July 1, 2008, therefore it has no bearing on this year's tax deferral program. The Tax Deferral applicants in this income bracket will be required to meet all other Property Tax Reduction (PTR) requirements, specifically status (age, disability etc), in order to be eligible.

I have included a copy of the bill. If you have any questions, please call us at anytime.

Pam Waters
Property Tax Reduction Unit

Possible Rules Needed

Bill No	Idaho Code	Action / Purpose	Rule Type
341	63-205	Add to Rule 217 the consequences of submitting inaccurate legal description and maps	Proposed
387	63-602	The change is clear. No change to Rule 603 is necessary.	None
419	63-105	Requires a new rule (Rule 128) creating the Cadastral Certification Program	Proposed
420	63-201	The bill is clearly written	None
470	63-803	Amend Rule 804 to show how to compute levies differently for the funds named in HB 470 and all others.	Temporary
529	63-3501	Very detailed law. No additional guidelines required.	None
530	63-701	Refers to internal revenue code concerning couples living apart and how their income is calculated; this may require a clarifying rule	Temporary
544	63-710	The amendment is clear. No rule required	None

Possible Rules Needed (Cont)

Bill No	Idaho Code	Action / Purpose	Rule type
550	63-802	Amend rule 802 to explain how to handle new construction	Proposed
	63-105A	Amend rule 509(abstracts) to include 63-105A	Proposed
	63-602NN	Does it matter that the “project period” does not have an end date? Can we require claimant to submit evidence of cost. The project would be eligible for future exemption when the cost hits \$3M as of Dec.31 if otherwise qualified.	Temporary
562	63-4502	The project period can be seven years. How is this seven year period monitored and when does the exemption start? Lease or rented property provision. Is a new rule 987 needed.	Proposed
	63-105A	rule 509(abstracts) to include 63-105A	Proposed

Possible Rules Needed (Cont)

Bill No	Idaho Code	Action / Purpose	Rule type
599	63-201	Clarification of definitions	Proposed
	63-313	Prorated transient personal property	Proposed
	63-803	Calculation of levies to avoid double counting of replacement money	Proposed
	83-802	Statute provides for double counting of replacement for 3% increase	Tech. correction Bill

(HB 341) Taxing District Boundaries need a proper legal description

- Amends §63-215, Idaho Code. (Legal description and boundaries to be recorded and filed)
- Requires the ISTC to review legal description and map of new or revised taxing districts or revenue allocation areas within urban renewal districts.
- If the ISTC finds that the legal description is not proper, the new or revised district may be rejected.
- **Effective 7/1/2008.**

(HB 387) Religious and Benevolent Organizations Property Tax Exemption

- **Amends §63-602B and 602C, Idaho Code.** (Property exempt from taxation – Religious corporations and Fraternal, benevolent, or charitable corporations)
- Clarifies that religious and benevolent organizations which are organized as limited liability companies are eligible for the exemption
- **Effective 1/1/2008.**

(IAC)

(HB 419) Requires the ISTC to provide for a Cadastral (Mapping) Certification Program

- **Amends §63-105A(17), Idaho Code. [Powers and duties – Property tax (of the ISTC)]**
- **Adds the requirement for the ISTC to provide a mapping certification program to the existing requirement that the ISTC provide a property tax appraiser certification program.**
- **Effective 7/1/2008. (Law.)**

(IAC) (HB 420) Property Tax Payment methods Modernized

- Currently only currency, checks, and drafts are permitted under Idaho Code §63-90
- This bill adds required definitions in Idaho Code § 63-201
- Adds credit cards, debit cards and electronic funds transfer as allowed methods of payment of property taxes.
- Allows but does not require counties to accept these methods
- Effective 7/1/08

(IAC)(HB 470) Determination of Tax Levies for Taxing Districts in which an urban renewal revenue allocation area is (RAA) located

- Amends §50-2908(1) Idaho Code (Determination of tax levies – creation of special fund)
- Requires that before the levy rate is computed for certain funds established after 12/31/07 Urban Renewal Increment Value be added back to current taxable value.
- The effected funds are:
 - 1 - 2 Year override elections pursuant to 63-802(3)
 - Judgments 63-1305 (assessment appeal refunds) and 33-802(1) (School district judgments)
 - Plant Facilities
 - Bonds
 - ≤ 2 Year school supplemental elections pursuant to 33-802(1)
- Applies to existing funds (listed above) if fund to RAA due to boundary changes
- Does not apply to permanent supplementals or permanent overrides

HB-470 continued

- Increment value added to taxable value as well as any increment value resulting from change in U/R boundaries.
- The effect is that property tax money goes directly to the taxing entity instead of the urban renewal agency.
- Curtails revenue gain to URDs resulting from voter approved (and a few other) levies.
- Effective 1/1/08

HB - 470 (Cont) Effect on Property Taxes

Value Information	
50,000,000	Net taxable value
5,000,000	U/R Increment
45,000,000	Value used for levies

Existing Funds Prior to 1/1/2008 (Old Law)		
M&O	100,000	0.002222222
Bond (expires 12/07)	300,000	0.006666667
Total:	400,000	0.008888889

Under this system the U/R increment value is excluded

New Funds As Of 1/1/2008 (New Law)		
M&O	100,000	0.002222222
Bond (approved by voters in 2008)	300,000	0.006
Total:	400,000	0.008222222

Under this system the U/R increment value is included when computing the levy for the bond only.

	Property's Taxable Value	Prop. Taxes
Prior to 1/1/2008	200,000	1,777.78
As of 1/1/2008	200,000	1,644.44
		133.33

Resulting in a lower property tax liability.

(HB 529)Exempts Geothermal Energy production from property taxes and levies a 3% tax on gross earnings

- Amends Chapter 35, Title 63, Idaho Code. This bill levies a gross revenue tax and exempts certain property from property tax. However, the amount of the new tax and the amount of the exempted tax are in no way related.
- Taxing unit means all taxing districts and any taxing district's fund having a different geographic boundary than that taxing district. (eg: county road and bridge)
- Gross wind or geothermal energy earnings means the gross receipts from distribution, delivery and sale of electricity to a customer for use or resale.
- Wind or geothermal energy tax of 3% paid on the gross wind or geothermal energy earnings of all wind or geothermal energy producers not regulated by the Idaho Public Utilities Commission as to price.
- Wind or geothermal energy tax is a lien on all property owned by the energy producer.

(HB 529 Continued)

Operator's Statement

- Wind and Geothermal energy producers submit an operator's statement to the State Tax Commission (STC) reporting:
 - ✓ Gross energy earnings.
 - ✓ Original cost and location of operating property used to produce electricity from wind or geothermal energy.

HB529 Continued

- Tax Commission:
 - ✓ Apportions the energy tax based on the ratio of weighted original costs and apportionment rate for each appropriate taxing unit to the total weighted project costs.
 - ✓ Notifies the superintendent of public instruction, county auditor, and county treasurer of the apportioned energy tax by the second Monday in August.
- County auditor notifies taxing units of the apportioned energy tax by the third Monday in August. (Entire tax is new revenue not limited by §63-802, Idaho Code.)
- County treasurer bills wind or geothermal energy tax by June 15.
- If the energy tax isn't paid by July 1, it is delinquent.
- Amends §63-602JJ, Idaho Code, exempting both wind and geothermal energy producer's operating property used to produce energy on which the tax will be paid.
- **Effective 1/1/2008.**

(HB 530) Amends Circuit Breaker law to explain how Income is determined for Certain Married Persons Living Apart

- Amends § 63-701, Idaho Code (PTR Definitions)
- Applies §§ 2(c) and 7703(b) of the Internal Revenue Code to determine the income of certain married persons living apart
- According to the STC Circuit Breaker administrators, this will affect very few applicants. Affects certain persons who have lived apart for six months and who provide 50% of the support of a dependent child.
- Effective 7/01/08

(HB 544)Deferral of Property Tax

- Amends §§ 63-713 and 63-714, Idaho Code (Property tax deferral act and definitions)
- Increases the maximum income eligibility requirement from \$28,000 to \$40,000
- Did not change the provisions that 6% interest accrues on the deferment.
- Still requires claimant to meet all other circuit breaker eligibility criteria (age, disability, etc.)
- Application is due April 15, 2009
- Effective for the 2009 Property Tax Year.
- The PTR staff will provide application instructions and guidelines in the near future.

(HB 550)County Commissioners may exempt certain New Plant and Buildings

- County Commissioners are given authority to grant full or partial exemption for up to 5 years for new qualified investments of at least \$3,000,000 with at least 80% of this at one project site.
- New qualified investments plus new investments in plant and building facilities are eligible
- Qualifying project sites must have been in rural development zone designated by U.S. Department of Agriculture.
- Taxpayer must also show that significant economic benefits would accrue to the county.
- The exemption amount of the related improvements are not put on the new construction roll until the exemption expires.
- Exemption amounts will need to be reported on abstract
- Effective 1/1/08

(HB 562) Provides a Property Tax Exemption for Certain New Capital Investment

- Adds a new Chapter 45 to Title 63, Idaho Code
- Known as the New Capital Investment Incentive Act
- Exempts amounts over \$400,000,000 from Property Tax
- Must be located in a single county
- Must make \$1billion investment over a 7 year project period
- “Property subject to provisions not included” on the new construction roll.
- Exemption amounts to reported on the abstract

(HB 680) Community Infrastructure District Act

- District created by:
 - A petition containing a general plan describing the improvements to be built and a financing plan is prepared
 - Petition must be signed by at least 66-2/3% of property owners
 - Filing the petition with the Clerks' of each jurisdiction
 - After public hearing the governing body (ies) shall approve a resolution either denying or granting the petition.
- District Organization:
 - Taxing district is formed by filing the legal description and a map of the district boundaries with the ISTC. (I.C. § 63-215)
 - The District Board is formed from the members of the governing board (s)
- Community infrastructure means:
 - Improvements that directly or indirectly benefit the district
 - Excludes public improvements fronting individual single family lots
 - Planning, design, construction, acquisition, all impact fees, permits – all necessary cost
 - Must be owned by the state or political subdivision

(HB 680) (cont)

- District Powers:
 - A political subdivision with special limited powers
 - Power to finance community infrastructure
 - Enter into contracts, buy and sell real and personal property, plan design and construct infrastructure, employ staff, develop pay plans, hire consultants, etc
 - Borrow Money
 - G O Bonds
 - Special Assessment Bonds
 - Revenue Bonds
 - Levy Taxes

Maximum levy limit for administration is .01%

(IAC) (HB 691) Tax deed process and Property disposal

- Amends §31-808 (Sale of tax deeded property)
 - County commissioners are to set a minimum bid which shall include all taxes owing, interest, and costs
 - Commissioners retain the right to reject any and all bids and shall have discretionary authority to reject or accept any bid less than the total amount of all delinquent taxes, late charges, interest, and costs including other costs associated with the property, advertising, and sale.....
 - Commissioners shall conduct an auction within 14 months from the issuance of the tax deed.
- Proceeds from the sale after the payment of all taxes and costs shall be apportioned to parties of interest and then to the owner of record at the time the tax deed was issued.
- After the sale, all parties in interest shall be notified of the sale and the amount of excess proceeds. The parties then have 60 days to make claim on the proceeds. Then within 60 days the claims shall be paid in priority order of liens. All remaining proceeds shall be paid to the owner of record.

(HB 691) (Cont)

- If the owner can not be located
 - The county treasurer shall put the excess funds in an interest-bearing trust for 3 years
 - The county may charge for the actual cost of looking for the owner. If the owner is not found after three years, the proceeds go to the county indigent fund
 - In calculating the indigent fund's restricted levy as set forth in §63-802, the proceeds shall be counted as property tax revenues.

(HP 599a) Personal Property Tax Exemption

- Exempts up to \$100,000 of personal property for each taxpayer in each county
- Effective date:
 - Not in effect for 2008
 - Only in effect for 2009 if state revenue for year ending June 30, 2008 increases by more than 5%
 - Will take effect on the first when the increase in state revenues does exceed 5%
- Replacement Money will be paid to the counties and other taxing districts:
 - No later than the third Monday in November the county clerks certifies the amount of the exemption.
 1. Shall identify the property receiving the tax reduction
 2. The value of the property
 3. The property's location
 4. The amount of the tax levy (The Levy)
 5. The tax before and after the exemption
 6. Shall be in the form as prescribed by the STC

(HP 599a) Personal Property Tax Exemption

- Transient Personal Property:
 - §63-313 (5) is added: For transient personal property valued at over \$100,000, any exemption in section 63-602KK, Idaho Code, available to the taxpayer shall be allowed among counties based on the prorated value provided in subsection (2) of this section.
- § 33-1103 is amended to include this exemption in the definition of market value when looking at bonding capacity.
- §63-802 contains a technical error that will need to be corrected by legislation – possibly rule
- §63-803 (rule 803) double counting of replacement money in levy setting.

HB 599a (continued)

Definitions (§63-201)

- A new definition of “**Fixture**” is provided incorporating the traditional 3-Factor test covering annexation, adoption, and intent. The definition is broadened a bit by saying that a thing is not a fixture if it is affixed to real property to enable the proper use of the thing.
- A new definition of “**Floating home**” to mean a stationary waterborne residential dwelling without its own power and is connected to on shore utilities.
- Amends the definition of “**Improvements**” to include manufactured homes and mobile homes as defined in I.C. section 39-4105, modular buildings as defined in 39-4301, fixtures, and floating homes.
- Deletes the definition of “**Manufactured home**” which was defined in reference to I. C section 39-4105. Manufactured homes whether declared real or not, continue to be taxed as real property.

599a Definitions – 63-201

(Continued)

- Amends the definition of “**Operating property**” making it clear that OP means both real and personal property.
- Amends the definition of “**Personal property**” to be everything that is not included in the term “real property.” Deletes from the definition equities in state lands, easements, reservations and leasehold real properties.
- Amends the definition of “**Real property**” to include Improvements (which includes fixtures). Real property means land, improvements, standing timber, quarries and fossils.

Real Property
I.C. §63-201
(9)

HB 599 (all versions)

Land

Improve-
ments
I.C. § 63-208(8)

Standing
Timber

Quarries and
Fossils

Buildings

Structures

Modular
Buildings &
Mobile Home

Fences

Fixtures

Floating
Homes

Fruit
Trees/vines

Everything else
is Personal
Property

Removing would
cause material
injury
(Annexation)

Use is integral to
The real property
(Adoption)

Reasonable intent to
make the article
A permanent
Addition
(Intent)

Net profit of Mines –
Not Exempt

It is important to properly classify Personal Property

512. SECONDARY CATEGORIES, OTHER THAN LAND OR IMPROVEMENTS – LISTING AND REPORTING (RULE 512). Section 63-509, Idaho Code. County assessors will use the following secondary categories to list property values, other than that for land or improvements, on assessment notices under Sections 63-301 and 63-308, Idaho Code, and will use these secondary categories to report values for property, other than land or improvements, to the State Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

01. Secondary Category 45 - Utility System Personal Property. Personal property that is part of locally assessed utility systems not under the jurisdiction of the State Tax Commission for appraisal. (3-30-07)

02. Secondary Category 55- Boats or Aircraft. Unlicensed watercraft or unregistered aircraft. (3-30-07)

03. Secondary Category 56 - Construction Machinery, Tools, and Equipment. Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-30-07)

04. Secondary Category 57 - Equities in Personal Property Purchased From the State. Personal property purchased from the state under contract.

(3-30-07)

05. Secondary Category 59 - Furniture, Fixtures, Libraries, Art, and Coin Collections. Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (3-30-07)

06. Secondary Category 63 - Logging Machinery, Tools, and Equipment. Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-30-07)

07. Secondary Category 64 - Mining Machinery, Tools, and Equipment. Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-30-07)

08. Secondary Category 66 - Net Profits of Mines. That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses. See Section 63-2802, Idaho Code, and Rule 982 of these rules. (3-30-07)

09. Secondary Category 67 - Operating Property. Property assessed and apportioned by the State Tax Commission. (3-30-07)

10. Secondary Category 68 -Other Miscellaneous Machinery, Tools, and Equipment. Unlicensed machinery, tools, and equipment not used in construction, logging, mining, or not used exclusively in agriculture. (3-30-07)

11. Secondary Category 70 - Reservations and Easements. Reservations, including mineral rights reserved, divide ownership of property rights. Easements convey use but not ownership. (3-30-07)

12. Secondary Category 71 - Signs and Signboards. Signs and signboards, their bases and supports. (3-30-07)

13. Secondary Category 72 - Tanks, Cylinders, Vessels. Containers.
(3-30-07)

14. Secondary Category 81-Exempt Property, Other Than Land or Improvements.
Category 81 is for county use to keep an inventory of exempt property other than land or improvements. (3-30-07)

15. Cross Reference. For descriptions of secondary categories used to list land values on the valuation assessment notice or report land values on the abstracts, see Rule 510 of these rules or used to list values for improvements on the valuation assessment notice or report improvement values on the abstracts, see Rule 511 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules.